

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

AUG 29 2005

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY BS DEPUTY

WILLIAM HENRY BYRD III,

Plaintiff,

vs.

CORNELL CORRECTIONS, INC.,  
et al.,

Defendants.

No. CIV-05-532-W

**ORDER**

On August 15, 2005, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this matter and recommended that the complaint filed by plaintiff William Henry Byrd III be dismissed upon filing. Byrd was advised of his right to object, and he has timely filed an Objection to the Report and Recommendation.

Upon de novo review of the record, the Court concurs with Magistrate Judge Roberts' suggested disposition of this matter. As she noted, it is the Court's responsibility to screen complaints under title 28, section 1915A of the United States Code and to dismiss the same if the Court determines that the complaint is frivolous or malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from immune defendants. 28 U.S.C. § 1915A(b); e.g., id. § 1915(e)(2).

Dismissal of a complaint for failure to state a claim for relief is appropriate if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). In reviewing the instant complaint, the Court finds that it cannot survive the initial screening required by section 1915A.

The complaint lacks any arguable basis in law or fact, and Byrd has failed to identify any action by, or advance any recognizable legal claim against, either defendant Cornell Corrections, Inc., or defendant City of Hinton that would give rise to any requested relief, including his prayer for modification of judgments, injunctive relief, writs of execution and mandamus, default judgments and contempt citations.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation issued on August 15, 2005;

(2) DISMISSES Byrd's complaint upon filing for failure to state a claim upon which relief may be granted; and

(3) ORDERS that this dismissal shall count as a "strike" against Byrd pursuant to title 28, section 1915(g) of the United States Code after he has exhausted or waived his right to appeal.

ENTERED this 29<sup>th</sup> day of August, 2005.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE